

KDADS STANDARD POLICY

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| Policy Name: | Personal Care Services | Policy Number: | |
| Division: | Home and Community Based Services (HCBS) | Date Established: | 8/1/2015 |
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Summary

This policy is designed to provide clarification of the regulations and limitations for reimbursement of personal care services (PCS) through the HCBS waiver programs. The term Personal Care Services (PCS) has been standardized across the HCBS waiver programs and will replace all previous terms for this service and/or worker. Previous terms that have been replaced include Personal Services, Personal Care Attendant, Personal Assistant Services, Attendant Worker, Direct Services Worker, and Attendant Care Services. Any reference to this service or service worker will be replaced with Personal Care Services or PCS Worker.

ENTITIES AFFECTED BY THIS POLICY

HCBS Providers

Managed Care Organizations (MCOs)

Foster Care Contractors (children in custody)

Policy

Personal Care Services (PCS) are designed to provide assistance to elderly and disabled participants in his or her home and community settings. PCS focus on assistance with Activities of Daily Living (ADLs) such as bathing, grooming, toileting, transferring, and eating and Instrumental Activities of Daily Living (IADLs) such as shopping, laundry, and meal preparation.

The PCS worker is responsible for supporting the participant in accessing medical services and normal daily activities by assisting the participant to accomplish tasks as listed within the scope of service in accordance with K.S.A 65-5115 and K.A.R. 28-51-113.

Personal Care Services are provided and reimbursed based on the assessed needs of the participation. The participant's needs are assessed by the selected Managed Care Organization (MCO) and identified on the Integrated Service Plan of Care (ISPOC). The ISPOC must document the participant's authorized service hours and selected provider.

A participant may receive PCS in the participant's place of employment if the participant demonstrates a need for assistance in the work environment. The participant's need for assistance in a work environment must be noted in the ISPOC.

Personal Care Services may be provided in a setting where the participant lives with a family member or informal support. A participant will not be provided PCS for activities or tasks that an in-home family member or informal support would normally provide to the family unless there are extenuating circumstances. In accordance with this expectation, a capable person will not be authorized for a task (such as lawn care, snow removal, shopping, or meal preparation) that the family member/informal support would normally complete for themselves. The list of potentially restricted tasks above is not exhaustive and will be determined based by the selected MCO, as appropriate.

A participant may be approved for PCS in a setting with a family member or informal support if an extenuating circumstance exists. PCS may be authorized if the support system must prepare a specialized diet due to the dietary needs of the participant. The selected MCO may also authorize PCS if the family member or informal support refuses to complete the PCS tasks for the participant. In this situation, the family member or informal support will not be paid for PCS and the selected MCO must assist the participant with obtaining a PCS Worker.

Personal Care Services will not be reimbursed for any period of time that a participant is admitted to an inpatient or residential hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, or institution for mental disease. Personal Care Services will not be reimbursed while a participant is in an institution for temporary stay.

If available, a participant or parent/legal guardian may select to self-direct PCS. Children receiving care in licensed foster care settings do not have the option to self-direct services. If a participant or legal guardian no longer wants to self-direct his or her PCS, then the participant or legal guardian will have the option to transition to agency-directed PCS without penalty.

NOTE PCS providers are required to document their time/attendance via Kansas Authenticare interactive voice recognition (IVR) system in order to be reimbursed for their services.**

I. Limitations to Personal Care Services

- a. PCS can be provided up to twelve (12) hours/ forty-eight (48) units per twenty-four (24) hour period and reimbursed based on the assessed needs of the participant
- b. PCS services cannot duplicate other services provided through the HCBS program. If accessing home-delivered meals, personal care services may only be authorized for meal preparation when access to Older American Act (OAA) is not available. If accessing medication reminder services, personal care services will not be authorized for medication management.
- c. When an individual elects hospice care, PCS services cannot duplicate services provided under hospice. Concurrent care is subject to approval by managed care health plan and must not be duplicative.

- d. If under the age of 22, participants must access services through the Medicaid State Plan and are not eligible for PCS tasks that are duplicative of services provided under Early, Periodic, Screening, Diagnostic, and Treatment (EPSDT) Services.
- e. A guardian or conservator is not permitted to provide HCBS PCS services if conflict of interest has not been mitigated. To mitigate the conflict of interest, the guardian or conservator must obtain a court order, appoint a designated representative, or select an objective PCS Worker. Refer to Conflict of Interest Policy for additional information.
- f. In accordance with K.A.R. 30-5-7, an adult participant's spouse or a minor participant's parent cannot be reimbursed for the provision of PCS unless one of the four criteria listed in the regulation is met.
 - 1. Three HCBS provider agencies furnish written documentation that the participant's residence is so remote or rural that HCBS services are otherwise completely unavailable.
 - 2. Two health care professionals, including the attending physician, furnish written documentation that the participant's health, safety, or social well-being, would be jeopardized.
 - 3. The attending physician furnishes written documentation that, due to the advancement of chronic disease, the participant's means of communication can be understood only by the spouse or by the parent of a minor child.
 - 4. Three HCBS providers furnish written documentation that delivery of HCBS services to the participant poses serious health or safety issues for the provider, thereby rendering HCBS services otherwise unavailable.
- g. A legally responsible person shall not be paid to provide personal care services. 42 Code of Federal Regulations (CFR) §440.167 prohibits federal financial participation (FFP) for payments to legally responsible individuals for the provision of State plan personal care services. This prohibition is based on the presumption that legally responsible individuals may not be paid for supports that they are ordinarily obligated to provide, payment may not be made to a legally responsible individual for the provision of personal care or similar services that the legally responsible individual would ordinarily perform or be responsible to perform on behalf of a waiver participant. However, a legally responsible individual (minor parent) may be paid to provide services under extraordinary care provisions.

Contact Information

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Related Information

ADDITIONAL RESOURCES AND MANUALS

Resources:

DEFINITIONS

Participant- person determined by the Kansas Department for Aging and Disability Services (KDADS) to be eligible for Medicaid-funded home and community-based waiver services.

Self-direction- service model where participants have the right to exercise decision making authority over some of the services they need to live in their community and accept the responsibility for taking a direct role in managing these services.

Integrated Service Plan of Care (ISPOC)- plan that details the services a participant needs and wants and the provision of these services. The ISPOC is developed by the Care Coordinator, participant, and the participant's support team.

Family- any person immediately related to the participant, such as parents/legal guardian, spouse, or child.

Informal Support- any person in the same home or community setting as the participant that is able to assist with the completion of PCS tasks for the participant.

Home- a location in which a participant makes his or her residence that cannot be defined as institutional in nature. For HCBS, the home and community settings of the participant must comply with the HCBS Final Setting Rule. See HCBS Final Rule Transition Plan for more information.

Capable Person: The Kansas Administrative Regulations (K.A.R.) 26-41-101 (h) states that a customer's spouse, guardian, conservator, person authorized as an activated Durable Power of Attorney (DPOA) for health care decisions, or an individual acting on behalf of a customer shall not be paid to provide Personal Care for the customer, except in limited circumstances as specified under K.A.R. 26-41-101, K.A.R. 26-42-101, and K.A.R. 30-5-307. If the designation of the appointed representative (guardian, conservator, activated DPOA for health care or an individual acting on behalf) is withdrawn, the individual may become the customer's paid direct support worker after the next annual review or a significant change in the customer's needs occurs prompting a reassessment.

Legally Responsible Person: (as defined in state law but typically the parent of a minor child or a spouse) are not eligible for Federal financial participation. Legally responsible individuals do not include the parent of an adult beneficiary (including a parent who also may be a legal guardian) or other types of relatives, except as provided in state law). 42 CFR §440.167 prohibits FFP for payments to legally responsible individuals for the provision of State plan personal care services. This prohibition is based on the presumption that legally responsible individuals may not be paid for supports that they are ordinarily obligated to provide.

Activities of Daily Living (ADL): Functional activities necessary on a daily basis to allow an individual to live in a safe and healthy environment. Examples of these activities include bathing, mobility, eating, and transferring.

Instrumental Activities of Daily Living (IADL): Activities necessary on an indirect basis, not directly related to functional skills, to ensure that the individual can continue to live in a safe and healthy environment. Examples of these activities include meal preparation, shopping, money management, and medication management.

Approved by:

Home & Community Based Services Director

Date

Community Services and Programs Commissioner

Date

KDADS Legal

Date